

**REMARKS****I. Status of the Claims:**

Applicant respectfully requests reconsideration of the instant application in view of the above amendments and the following remarks. Upon entry of this amendment, claims 1-30 will be pending in this application. Claims 1, 2, 9-15, 20-27 and 29 have been amended. Applicant believes that these changes introduce no new matter. Entry and consideration of this Amendment are respectfully requested.

**II. Objections to the Drawings:**

The Examiner objects to Figures 2, 8, 10, and 12-14 because they are not designated by a legend such as --Prior Art--. To overcome this objection, each of these drawings has been amended to include a legend stating "Prior Art".

In addition, Figs. 5 and 6 are also sought to be amended. Accordingly, Applicant submits a Letter to the Examiner Requesting Approval of Drawing Changes. Approval of these corrections are respectfully requested in the next formal communication.

**III. Rejection Under 35 U.S.C. § 112:**

Claim 14 is rejected under 35 U.S.C. § 112, second paragraph as being allegedly indefinite. In particular, the Examiner asserts that the phrase "the image sensing period" in line 2 lacks antecedent basis. The phrase "image sensing period" has been changed to --charge accumulation time-- in claims 1, 2, 9-12, 13, 14, 20-25 and 27. These changes are made to more

clearly recite features of the present invention. Accordingly, Applicant requests that this rejection be withdrawn.

**IV. Rejection Under 35 U.S.C. § 102:**

Claims 1-6, 9, 13-17, 20, 21, 25, and 26 are rejected under 35 U.S.C. §102(b) as being allegedly anticipated by what the Examiner asserts as being Applicant's admitted prior art of Figures 2, 8, 10, 12, 13, and 14 in the instant application. These portions of the application are referred to herein as "the alleged APA". Applicant disagrees with this rejection for the following reasons.

Independent claim 1 is directed to an image sensing apparatus, which includes an image sensing device, a signal forming device, and a control device. As recited in claim 1, the control device changes emitting light in correspondence with a charge accumulation time of the image sensing device when the signal forming device forms a signal for focusing.

Independent claim 13 is directed to an image sensing apparatus, which also includes an image sensing device, a signal forming device, and a control device. However, claim 13 recites that the control device repeatedly emits light for assisting signal forming operation performed by the signal forming device at a period of image sensing operation of the image sensing device.

The alleged APA does not disclose emitting light based on an image sensing period, as recited in claims 1 and 13. Instead, these portions disclose a fill-in light emission unit that is turned on and off based on the pulses of the vertical synchronizing signal. This dependence on the vertical synchronizing signal is shown, for example, in Figures 8 and 12.

Also, in the Specification, this dependence is discussed at pages 5-6. Moreover, page 8 of the Specification states that with this vertical synchronizing signal dependent approach, "the fill-in light emission unit is turned on at the same time regardless of whether drive is performed at a high shutter speed in which the charge accumulation period of the image sensing device is, e.g., 1/250 of a second or 1/1000 of a second, or at an ordinary shutter speed in which the charge accumulation period of the image sensing device is 1/60 of a second."

For at least these reasons, the features of independent claims 1 and 13 are neither taught nor suggested by the alleged APA. Independent claims 25 and 26 are method claims that correspond to claims 1 and 13, respectively. Therefore, the features of these claims are neither taught nor suggested by the alleged APA.

Further technical differences also exist between the alleged APA and the claimed invention. For instance, claims 2 and 14 (which depend from claims 1 and 13, respectively) recite that the charge accumulation time is an image sensing period for the image signal to be used for photographing. For at least the reasons stated above, this feature is not taught nor suggested by the alleged APA.

#### **V. Rejections Under 35 U.S.C. § 103:**

Claims 27-30 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over the alleged APA. These claims are directed to media and recite features similar to those recited in claims 1 and 13. Applicant disagrees with this rejection for the reasons provided above.

Also, the Examiner applies additional references to reject several of the dependent claims. For instance, claims 7-8, 11, 18-19 and 23 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the alleged APA in view of U.S. Patent No. 5,229,856 to Koshiishi ("Koshiishi"). In addition, claims 10 and 22 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the alleged APA in view of U.S. Patent No. 6,2798,490 to Fukuda et al. ("Fukuda"). Also, claims 12 and 24 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the alleged APA in view of U.S. Patent No. 5,438,367 to Yamamoto et al. ("Yamamoto"). Applicant disagrees with these rejections because these additional references fail to overcome the aforementioned deficiencies of the APA.

### **CONCLUSION**

Applicant respectfully submits that all of the stated grounds of rejection have been properly traversed accommodated or rendered moot. Thus, Applicant believes that the present application is in condition for allowance, and as such, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections, and allowance of this application.

### **AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4503, Order No. 1232-4640.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to

grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4503, Order No. 1232-4640.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: 7/29/04

By: 

John A. Harroun  
Registration No. 46,339  
(202) 857-7887 Telephone  
(202) 857-7929 Facsimile

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.  
345 Park Avenue  
New York, NY 10154-0053